

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

JAMES CROSS,

Petitioner,

v.

**CIVIL ACTION NO. 3:05CV85
CRIMINAL ACTION NO. 3:00CR57
(BROADWATER)**

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated April 24, 2006. Petitioner's objections to the Report were not filed in a timely matter; however, in the interests of justice, the Court now **GRANTS** the petitioner's Motion for Leave to File his objections (**Document 1168 in 3:00CR57**) and has considered the objections and conducted a *de novo* review of the petition, Report, and objections to such. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation (**Document 2 in 3:05CV85 and Document 1164 in 3:00CR57**) should be and is hereby **ORDERED** adopted.

The Court further **ORDERS** that the petition of the petitioner (**Document 1 in 3:05CV85 and Document 1103 in 3:00CR57**) be **DENIED and DISMISSED WITH PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation. It is further **ORDERED** that this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 12th day of July 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE